

§ 258.73

40 CFR Ch. I (7–1–03 Edition)

(1) The cost estimate for post-closure care must be based on the most expensive costs of post-closure care during the post-closure care period.

(2) During the active life of the MSWLF unit and during the post-closure care period, the owner or operator must annually adjust the post-closure cost estimate for inflation.

(3) The owner or operator must increase the post-closure care cost estimate and the amount of financial assurance provided under paragraph (b) of this section if changes in the post-closure plan or MSWLF unit conditions increase the maximum costs of post-closure care.

(4) The owner or operator may reduce the post-closure cost estimate and the amount of financial assurance provided under paragraph (b) of this section if the cost estimate exceeds the maximum costs of post-closure care remaining over the post-closure care period. The owner or operator must notify the State Director that the justification for the reduction of the post-closure cost estimate and the amount of financial assurance has been placed in the operating record.

(b) The owner or operator of each MSWLF unit must establish, in a manner in accordance with § 258.74, financial assurance for the costs of post-closure care as required under § 258.61 of this part. The owner or operator must provide continuous coverage for post-closure care until released from financial assurance requirements for post-closure care by demonstrating compliance with § 258.61(e).

§ 258.73 Financial assurance for corrective action.

(a) An owner or operator of a MSWLF unit required to undertake a corrective action program under § 258.58 of this part must have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under § 258.58 of this part. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner or operator must notify the

State Director that the estimate has been placed in the operating record.

(1) The owner or operator must annually adjust the estimate for inflation until the corrective action program is completed in accordance with § 258.58(f) of this part.

(2) The owner or operator must increase the corrective action cost estimate and the amount of financial assurance provided under paragraph (b) of this section if changes in the corrective action program or MSWLF unit conditions increase the maximum costs of corrective action.

(3) The owner or operator may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided under paragraph (b) of this section if the cost estimate exceeds the maximum remaining costs of corrective action. The owner or operator must notify the State Director that the justification for the reduction of the corrective action cost estimate and the amount of financial assurance has been placed in the operating record.

(b) The owner or operator of each MSWLF unit required to undertake a corrective action program under § 258.58 of this part must establish, in a manner in accordance with § 258.74, financial assurance for the most recent corrective action program. The owner or operator must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with § 258.58 (f) and (g).

§ 258.74 Allowable mechanisms.

The mechanisms used to demonstrate financial assurance under this section must ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever they are needed. Owners and operators must choose from the options specified in paragraphs (a) through (j) of this section.

(a) *Trust Fund.* (1) An owner or operator may satisfy the requirements of this section by establishing a trust fund which conforms to the requirements of this paragraph. The trustee